

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

THOMAS BURRELL

PLAINTIFF

v.

CIVIL ACTION NO. 4:17CV170-DMB-RP

WAYNE CARLISLE, et al.

DEFENDANTS

ORDER GRANTING MOTION TO SUBSTITUTE PARTY

Plaintiff has moved to substitute “Angela Welting, the duly appointed personal representative of the Estate of Wayne M. Carlisle” for Wayne Carlisle and Wayne Carlisle Farms. Docket 93. A hearing was held on June 4, 2019 and counsel for Angela Welting urged the court to exercise its discretion to deny the motion to substitute as the substitution would delay the closing of the estate.

The court has reviewed both Federal Rule of Civil Procedure 25(a) and plaintiff’s motion and concludes that it should be GRANTED. Plaintiff filed his motion sufficiently in advance of the 90-day deadline, he properly served Angela Welting with both the Motion to Substitute and the Notice of Hearing, and the plaintiff’s claims are survivable. For purposes of substitution of “proper parties” upon death of a party, the “proper party” to substitute is either the executor or administrator of the estate of the deceased. *Ashley v. Illinois Cent. Gulf R. Co.*, 98 F.R.D. 722, 724 (S.D. Miss. 1983). Therefore, the court concludes that “Angela Welting, Personal Representative and Executrix of the Estate of Wayne M. Carlisle” is the proper party to be substituted for defendants Wayne Carlisle, Individually, and Wayne Carlisle Farms.

ACCORDINGLY, IT IS ORDERED that “Angela Welting, Personal Representative and Executrix of the Estate of Wayne M. Carlisle” is substituted as the proper party defendant in

place and instead of “Wayne Carlisle, Individually” and “Wayne Carlisle Farms.” The Clerk of Court is directed to change the style of the docket to reflect the new, properly designated defendant. Also, “Angela Welting, Personal Representative and Executrix of the Estate of Wayne M. Carlisle” is hereby substituted as the proper party defendant in place and instead of “Wayne Carlisle, Individually” and “Wayne Carlisle Farms” throughout the Final Pretrial Order in each place that Wayne Carlisle or Wayne Carlisle Farms are identified as parties.

SO ORDERED, this, the 4th day of June, 2019.

/s/ Roy Percy
UNITED STATES MAGISTRATE JUDGE